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Tuesday, May 26, 1987

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

GERHARD D. FRIEDRICHSEN and

No. 1-85-00007

GINETTE L. FRIEDRICHSEN,

Debtors.

_____/

ORDER SUSTAINING OBJECTION TO AMENDED CLAIM OF EXEMPTION

The debtors filed their [Chapter 7](#) petition on January 4, 1985. At the time they filed their petition, they scheduled as an asset \$2500.00 held in a bank account which they identified as "deposits from paid earnings." The debtors did not claim the account as exempt. The [Trustee](#) made demand for the funds and when there was no compliance he brought an [adversary proceeding](#) against the debtors. On December 17, 1986, a judgment was entered requiring the debtors to pay the Trustee \$2500.00, plus interest. On February 20, 1987, the debtors filed an amended schedule B-4 attempting, for the first time, to exempt the bank account funds. The debtors seem to believe that if their amended claim of exemption were allowed the judgment against them would somehow be voided. This is not the case; the judgment is a money judgment, fully enforceable regardless of whether the claim of exemption is allowed. The fact that the basis for the judgment was an asset now claimed as exempt is irrelevant. Since allowance of the exemption would not keep the Trustee from enforcing his judgment,

the issue of allowability is basically moot. However, there are sufficient grounds for sustaining the objection even if the issue were not moot based upon the debtors' failure to put forth a reasonable excuse for the delay of two years in seeking amendment (In re Nowak (Bkrtcy.W.D.Wis.1984) 43 B.R. 545, 547), the substantial time spent by the Trustee attempting to recover the asset (In re Polk (Bkrtcy.E.D.Mo.1981) 1 B.A.M.S.L. 417), and the hindrance to the Trustee in the diligent administration of the estate already caused by the debtors (In re Snow (Bkrtcy.E.D.Cal.1982) 21 B.R. 598, 600; In re Shapkin (Bkrtcy.E.D.Cal.1981) 16 B.R. 26, 28). IT IS THEREFORE ORDERED that the Trustee's objection is sustained.

Dated: May 26, 1987

ALAN JAROSLOVSKY

U.S. [BANKRUPTCY JUDGE](#) 

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